

1 BEFORE THE FLORIDA JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

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3

INQUIRY CONCERNING A Florida Supreme Court

4

JUDGE: CYNTHIA A. HOLLOWAY Case No.: SC00-2226

5 NO.: 00-143

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10 DEPOSITION OF: ROBERT W. BUTLER

11 TAKEN: Pursuant to Notice
Instance of Respondent

12

DATE: June 6, 2001

13

TIME: Commencing at 3:00 p.m.

14

PLACE: Smith and Tozian, P.A.

15

109 North Brush Street

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Suite 150

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Tampa, Florida 33602

17 BEFORE: NOELE J. RILEY
Stenographic Court Reporter
18 and Notary Public, State
of Florida at Large

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1 ROBERT W. BUTLER,

2 having been first duly sworn to tell the truth, the whole

3 truth, and nothing but the truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. RYWANT:

6 Q Sir, state your name and business address for the
7 record, please.

8 A Robert W. Butler, B-U-T-L-E-R. 13910 Oberlin,
9 O-B-E-R-L-I-N, Manor Way -- three words -- Tampa, Florida,
10 33613.

11 Q And do you have a business that you operate at
12 that address, or is that your residence address?

13 A Both, one-man office and a residence.

14 Q What type of occupation or profession do you
15 presently pursue?

16 A Private investigator, security consultant.

17 Q Are you licensed by the state?

18 A Yes, I am.

19 Q What types of licensure do you have?

20 A I have an A and a C. A is for agency license.

21 C is for the private investigator license.

22 Q How long have you had those?

23 A Since 1990, January, or December, maybe, of 1989.

24 Q Is there any disciplinary history with regard to

25 those licensures?

1 A No.

2 Q If you could, give me an overview of your

3 professional experience as an investigator.

4 A As an investigator, I started with the FBI in

5 1965, investigated mostly general criminal matters -- bank

6 robberies, extortions, kidnappings, et cetera -- at seven

7 different locations, finishing up here in Tampa. I did

8 Mafia organized crime investigations in Milwaukee, and my

9 last investigation was special agent in charge of the Tampa

10 field office from 1983 to the last day of 1989.

11 Q I gather you retired from the FBI as a field agent

12 here in Tampa?

13 A Yes. I was the agent in charge.

14 Q Is that when you started your own private

15 investigation business?

16 A That's correct.

17 Q How long have you performed work for the Judicial

18 Qualifications Commission?

19 A Three or four years. I am not exactly sure which.

20 I was trying to think of that on the way over. Probably

21 three, three and a half.

22 Q How did you get involved in doing the work for

23 that agency?

24 A Tom MacDonald, the general counsel for the JQC,

25 asked me if I would be interested in assisting him in doing

1 investigations.

2 Q How was it that you and Mr. MacDonald came in
3 contact? Did he seek you out? Did you seek him out? Was
4 it a referral, if you know?

5 A About three years prior to that he was looking for
6 somebody to assist him on a sensitive matter, and I was
7 referred, I understand, through a secret service agent in
8 another city to a third party who recommended and asked me
9 if I would work with Tom MacDonald on that, and I said I
10 would. That's how it started.

11 Q Was that a JQC matter?

12 A No, it was not.

13 Q It was something separate and apart from JQC work?

14 A Separate and apart all together.

15 Q When I say JQC, you understand I mean the Judicial
16 Qualifications Committee?

17 A Sure. It was not until after that was completed
18 that I started working for them.

19 Q I believe in some of the documents I have
20 previously been provided I saw what I call a retainer letter
21 from Mr. MacDonald to yourself?

22 A That's correct.

23 Q Such a document basically outlining the terms of
24 the services and how you will be compensated?

25 A I don't recall whether it was from Mr. MacDonald

1 or from the JQC, but each case I get a separate contract.

2 Q I was going to ask you, and you segued nicely into
3 it, how is that handled, on a case-by-case basis or are you
4 on an annual retainer? How does that work?

5 A I sometimes get a call saying, "Can you take a
6 case?" Sometimes it just comes in the mail. Sometimes a
7 case comes first and the contract a day or two later.
8 Sometimes the contract comes first, and then later I get the
9 case.

10 Q These contracts you are referring to, those are
11 something authored either by Mr. MacDonald or the JQC?

12 A That's correct.

13 Q One is sent out to you in each case?

14 A That's correct.

15 Q You acknowledge agreement with the terms?

16 A Exactly. I have to sign it and send it back.

17 MS. BUTCHKO: Off the record.

18 (Whereupon, there was a discussion held off the
19 Record.)

20 BY MR. RYWANT:

21 Q During your work for the JQC, have you ever
22 testified before either the investigative or the prosecuting
23 panel?

24 A No, I have not.

25 Q Okay. Is your work solely limited to the securing

8

1 of statements such as we will discuss ultimately in this
2 case?

3 A No.

4 Q Okay. Let's talk about the Judge Holloway case,
5 if we could. When were you first contacted in this matter?

6 A There was a complaint that came in. I think it
7 was in June. I don't have the exact date. I can look to
8 get it.

9 Q Yes. Mr. Butler, please feel free to refer to
10 anything in your file that you need to today in order to
11 respond to the questions.

12 A The complaint came to me by fax on June 1, as I
13 can best recall on that.

14 MS. BUTCHKO: Of what year, sir?

15 THE DEPONENT: Of 2000.

16 BY THE DEPONENT:

17 A The best I recall, I believe I got a call from Tom
18 MacDonald saying, "Can you take the case?"

19 Q Was that before or after the fax?

20 A That would have been before. I say that because
21 on the cover sheet it says, "Per our conversation." That's
22 the only thing I am going by. I don't recall the
23 conversation.

24 Q The date of that fax, once again, is June 1, 2000?

25 A Yes.

1 Q Would it be fair to say that you had not done any
2 work prior to that date in regard to the investigation of
3 Judge Holloway?

4 A Yes.

5 Q What were you asked to do at that time?

6 MS. BUTCHKO: I am going to object as to privilege
7 for any conversations with Tom MacDonald, general
8 counsel for the JQC.

9 MR. RYWANT: Let me take it to the logical extreme.
10 That would preclude me from asking about the statements
11 that have been produced.

12 MS. BUTCHKO: Say that again. I am sorry.

13 MR. RYWANT: Taken to its logical extreme or
14 conclusion, that would preclude me from asking about the
15 statements that have already been produced.

16 MS. BUTCHKO: While we were on the record, I will
17 not object to questions made to Mr. Butler regarding the
18 statements -- the witness summaries and witness
19 statements that we were ordered to produce by the
20 Supreme Court of Florida.

21 Any conversations that the JQC private investigator
22 had with myself, with Tom MacDonald, with anybody from
23 the JQC's executive office and any side investigation
24 that he did at my direction that is not part of any
25 pending charges I am going to object and make an

1 attorney/client privilege objection.

2 MR. RYWANT: And you are going to instruct him not

3 to answer?

4 MS. BUTCHKO: Yes.

5 MR. RYWANT: And you will file a motion for

6 protective order?

7 MS. BUTCHKO: (Indicating affirmatively.)

8 MR. RYWANT: Okay. That's fair.

9 BY MR. RYWANT:

10 Q Is there a standard protocol with regard to how

11 these investigations are to be handled?

12 MS. BUTCHKO: Objection to form. You may answer.

13 BY THE DEPONENT:

14 A No. You know, I have got 35 years of

15 investigative experience. I investigate a case. I go where

16 the leads take me.

17 Q But there is nothing, by way of specific example,

18 that you were provided in writing in terms of JQC criteria

19 with regard to a particular case?

20 A No.

21 Q How do you know what to do?

22 A You start with the complaint.

23 MS. BUTCHKO: Just for point of clarification, you

24 are speaking hypothetically?

25 MR. RYWANT: Yes.

1 MS. BUTCHKO: Okay. Go ahead.

2 BY THE DEPONENT:

3 A Typically, I get a complaint. I read the
4 complaint. I typically will interview, first, the
5 complainant and then go where the leads follow me -- or
6 where the leads take me; by that, what is in the complaint,
7 where it would be logical, people to talk to, records to
8 obtain.

9 The complainant might add other names of people
10 that suggest I talk to and wherever the investigation takes
11 me. I follow it and attempt to give the JQC a good picture
12 of what I can find of what happened.

13 Q Do you keep time records with regards to all
14 activities done on a particular investigation?

15 A Loose time records, yes.

16 Q What does that mean?

17 A Well, I give them a lot more hours than I charge
18 them for. Let me say that.

19 Q Okay. How are those time records maintained?

20 A I usually write them in a piece of paper and
21 staple it to the left side of the file or sometimes write
22 them on the file and usually submit them at the end of the
23 month.

24 Q Once again you have anticipated my next question.

25 How often do you bill the JQC?

1 A Generally, monthly. Sometimes I wait until -- if
2 the investigation is going to take, say, six weeks, I will
3 wait until the investigation is over and bill them at the
4 end of the investigation.

5 Q How much time did you -- do you have in this case?

6 MS. BUTCHKO: I am going to object. What did you
7 say? Did you answer that?

8 THE DEPONENT: I said "I."

9 MS. BUTCHKO: Okay. I am going to object as to
10 relevance, and also I feel that that question is beyond
11 the parameters and the scope of the discovery that's
12 been allowed by the Supreme Court, but you can answer.

13 BY THE DEPONENT:

14 A I have no idea. I would have to calculate it.

15 Q Do you have the slip that you referenced for me
16 earlier?

17 A No, I don't.

18 Q Where is that?

19 A Typically, when I bill them, I throw the slip
20 away. I would imagine -- I can't recall seeing it when I
21 went through this stuff, so I imagine that is what happened.

22 Q It is gone?

23 A Yes. There are different slips. I do one month.
24 I bill them. I throw it away, and I start a new one.

25 Q What about your billing records?

1 MS. BUTCHKO: Objection to form.

2 BY MR. RYWANT:

3 Q When you send out an invoice to the JQC, do you

4 keep copies of those?

5 A Yes.

6 Q Do you have those?

7 A No.

8 Q Where are they?

9 A On my computer.

10 Q There is no hard copy, so to speak?

11 A I don't keep a hard copy. I have them in my

12 computer. I bring it up if I need it.

13 Q Would there be any objection to you providing me a

14 copy of the complete billing records that you invoiced the

15 JQC in this case?

16 MS. BUTCHKO: I have an objection. I have a work

17 product privilege objection.

18 MR. RYWANT: Let me make the record with him.

19 BY MR. RYWANT:

20 Q I mean, there is nothing from your perspective

21 other than the objection of privilege raised by counsel, is

22 there?

23 A Well, I just have to go with what the counsel

24 says. It is doable.

25 Q It is accessible?

1 A Yes. Yes.

2 Q Okay. With regards to the statements that we will
3 discuss -- and if you need me to inventory them, I think I
4 have them all here, Mr. Butler -- do you have any idea of
5 how much time you spent securing these statements and
6 preparing them in the form that we have got before us?

7 MS. BUTCHKO: You know, I don't understand. I have
8 an objection. I don't understand the question. Do you
9 mean collecting them to be produced for you?

10 MR. RYWANT: No, in total. Let me clarify it.

11 BY MR. RYWANT:

12 Q Did you understand what I was asking?

13 A Well, no, I didn't.

14 Q Okay. That's fair. With regard to talking to the
15 people, preparing the typed summary, whatever notes you did
16 is what I am looking at in terms of a response. Do you have
17 any idea what type of time you expended on these statements?

18 A Including talking to the people?

19 Q Talking to the people and preparing them.

20 A No. I would have a hard time breaking that out.

21 I guess it is possible, but I could not even make a wild
22 guess on that.

23 Q Now, I think we have established -- well, before
24 we go on to that, can we conduct an inventory of what is in
25 your file?

1 A Sure.

2 Q If you would, start from front to back and just

3 tell me what it is.

4 MS. BUTCHKO: Just so that you know, Mr. Rywant,

5 this is not his entire file. This is the file that we

6 are going to produce to you today.

7 MR. RYWANT: Right, but I would like an inventory

8 of what is in his entire file. I understood I was going

9 to get that. You already forewarned me that you were

10 not going to produce privileged materials, but I thought

11 we talked about it.

12 MS. BUTCHKO: Yes. Can we go off the record?

13 (Whereupon, there was a discussion held off the

14 Record.)

15 MR. RYWANT: We briefly discussed off the record

16 the privilege log that was served on May 7, 2001 which

17 is going to be Exhibit 18 to this deposition. It is my

18 understanding that this privilege log is going to be

19 amended?

20 MS. BUTCHKO: Yes, it is.

21 (Whereupon, Exhibit 18 was identified for the

22 Record.)

23 MR. RYWANT: Just for the record, can you give me

24 an overview of the amendments so I don't have to

25 question the witness about them, or if I do I can ask

1 him now.

2 MS. BUTCHKO: Yes. In going through Mr. Butler's
3 file, there are other items that I have not put on this
4 list because I believe that they reveal my work product
5 and my mental processes involving this case -- my
6 thought process.

7 I have agreed to identify if there are witness
8 interview summaries as 'witness interview summary of
9 female witness' or however I am going to designate it
10 and give it a date.

11 MR. RYWANT: Okay. I think we also discussed off
12 the record that to the extent you don't want to identify
13 these male or female people you will call them Jane Doe
14 or John Doe and give the date of the purported
15 interview.

16 MS. BUTCHKO: Okay. That's fine. Fine.

17 BY MR. RYWANT:

18 Q Mr. Butler, I would assume, unless you tell me
19 otherwise, today is the first day you have seen this?

20 A Yes.

21 Q What I am referring to, and I apologize for the
22 record, is Exhibit 18. With regard to the privilege log,
23 designated in Numeric 3 there is a reference to
24 correspondence from the JQC to yourself and from Tom
25 MacDonald to yourself dated May 16, 2000. It was my

1 understanding that you previously told me that your first
2 involvement or contact in this case was June 1, 2000.

3 A I think that and I think A above it are both
4 typos, because as I say, it started June 1. When I first
5 saw this now, I mentioned it cannot be May 16 or April 10
6 because I didn't have a case.

7 Q I can understand -- and let me brainstorm with
8 you, at the risk of providing a narrative question.

9 A Sure.

10 Q With regard to A under 3, I can speculate -- and I
11 think I am accurate in doing so -- that April 10, 2000 is
12 Mr. Johnson's initial complaint.

13 A That's correct.

14 Q Okay. However, given your testimony here today of
15 the initial involvement being June 1, I cannot -- other than
16 that testimony being wrong -- come up with an explanation of
17 the JQC contacting you on May 16, 2000, and you believe B
18 and C under Numeric 3 are incorrect?

19 A Yes. I do believe they are incorrect, because the
20 first thing I remember about the case is when I got the
21 complaint. I am quite sure that is accurate.

22 Q Okay. As your file reflects, the complaint was
23 faxed to you by Mr. MacDonald in a transmission of
24 June 1, 2000?

25 A That's correct.

1 Q I mean, the way you have your file set up -- I am

2 not trying to be nosey or anything --

3 A That's correct. Sure.

4 Q -- but you have that stapled, that fax sheet

5 stapled to the complaint, correct?

6 A That's correct.

7 MR. RYWANT: Betty, just so I understand, under

8 Numeric 3, E, F and G -- am I to understand those are

9 communications from Mr. Johnson to yourself or to

10 Mr. Butler?

11 MS. BUTCHKO: I think these are to Mr. Butler.

12 BY MR. RYWANT:

13 Q Do you have documents of those three dates under

14 E, F and G in your file, or were they in your file before

15 they were removed based upon the privilege?

16 A Yes.

17 Q So other than what we have talked about insofar as

18 some typographical errors and what has been moved to set

19 forth in this privilege log, your complete file is in front

20 of you, correct, sir?

21 A That's correct. I pause here, because there is

22 also faxes that I produced to the counsel that are in there.

23 Q Don't tell me their content, but faxes from you to

24 someone?

25 A Yes, from me to Tom MacDonald and from me to

1 Ms. Butchko.

2 Q Okay. Are those identified in this privilege log?

3 A I don't see them, no.

4 Q Can you give me the number of these faxes -- how
5 many of them?

6 A I would have to take a wild guess on that.

7 Q Okay. I don't want you to guess.

8 MS. BUTCHKO: I don't want to mislead you. There
9 is other stuff that I was not going to put in the
10 privilege log that I didn't feel I had to. I have
11 written Mr. Butler numerous letters instructing him on
12 what I need him to do.

13 MR. RYWANT: It is my understanding of the current
14 state law, and I am always willing to be corrected, that
15 when you file a privilege log it needs to encompass the
16 entirety of the documents that would have been produced
17 but for the assertion of privilege.

18 If those letters fall within the ambit of the
19 subpoena -- I would suggest to you they do, because I
20 sent a very broad subpoena to Mr. Butler -- I would like
21 an identification of those letters by sender and sendee
22 and date of transmission.

23 MS. BUTCHKO: Okay. If I -- I am going to consult
24 with somebody about that. If you are right, I will
25 identify the letters. It sounds like what you are

1 saying makes sense, but these are just so blatant
2 attorney/client privilege I didn't even think I had to
3 list my direct correspondence with my investigator, but
4 if you are right I will provide them.

5 BY MR. RYWANT:

6 Q Is there anything else that has been removed from
7 your file that is not identified on that privilege log,
8 Mr. Butler?

9 A No, other than what we have discussed here.

10 Q Fair. Then if you would, finish inventorying or
11 begin inventorying -- I am not sure where we are in that
12 process -- what you have in your file, sir.

13 A The original complaint; interview of Bailiff David
14 Bowers, B-O-W-E-R-S; interview of Sylvia F. Carra,
15 C-A-R-R-A -- these are all the results of the interviews --
16 Sharron K. Cosby, C-O-S-B-Y; Pamela F. Dato, D-A-T-O;
17 Kimberly K. Fernandez, F-E-R-N-A-N-D-E-Z; Leslie A. Hoffman,
18 H-O-F-F-M-A-N; Detective Donna J. Keene, K-E-E-N-E; David J.
19 Rowland, R-O-W-L-A-N-D; Ronald J. Russo, R-U-S-S-O; Michael
20 Sinacore, S-I-N-A-C-O-R-E; Circuit Judge Ralph C. Stoddard,
21 S-T-O-D-D-A-R-D; Christine Taylor, T-A-Y-L-O-R; Detective
22 John Yaratch, Y-A-R-A-T-C-H; Tampa police report, copy of
23 one Report Number 00--15754; incident report, Tampa Police
24 Department, the date reported 10-9-98.

25 Q I am going to have those marked, and we will get

1 them identified in that fashion.

2 A Sure. Okay. Let me ask her something.

3 Q Sure.

4 (Whereupon, there was a discussion held off the

5 Record.)

6 BY THE DEPONENT:

7 A Okay. I have the deposition of Robin Adair,

8 Petitioner versus Mark Johnson, Respondent, dated

9 November 18, 1998; results of the interview of Mark Johnson;

10 petition for injunctive relief, Jeanne, J-E-A-N-N-E,

11 T. Tate, Plaintiff versus City of Tampa and Sonny's Tree

12 Service; civil cover sheet for the same case; notice of

13 filing for the same case; temporary injunction order for the

14 same case; notice of voluntary dismissal for the same case;

15 and a circuit civil division notice for the same -- invoice,

16 I am sorry, for the same case.

17 Q Can you tell who the payee is on that invoice? I

18 am sorry. Who is the payor?

19 A J. Tate, T-A-T-E.

20 Q That was part of the records you secured from the

21 clerk of the court with regard to that litigation?

22 A That's correct.

23 Q Okay. Back to the interviews.

24 A Back to the interviews. Circuit Judge Catherine

25 G. Essrig, E-S-S-R-I-G; Judicial Assistant Marie L. Folsom,

1 F-O-L-S-O-M; Bailiff Angela L. Martin. I think that's it.

2 Q The white piece of paper that is clipped to your

3 manila folder, what is that, sir?

4 A Something I prepared today just listing in order

5 where all these were. In case you asked for them, I could

6 pull them up fast instead of digging and digging and

7 digging.

8 Q An index?

9 A Right. I just went through these and put them on

10 there today.

11 Q Mr. Butler, you have touched on it briefly, but I

12 want to follow up and get some specifics from you with

13 regard to these interviews. I am asking these in general,

14 because I note there is some system, it looks like, anyway.

15 Each of the written summaries you prepared starts off with a

16 date?

17 A That's correct.

18 Q Is that the date you prepared the summary or the

19 date you spoke to the person whose summary it is?

20 A It is the date I spoke with the person.

21 Q Do you record those conversations?

22 A No.

23 Q Why? That is kind of an open-ended question.

24 MS. BUTCHKO: Or why not?

25 MR. RYWANT: Sure. Yes.

1 BY MR. RYWANT:

2 Q I will rephrase that, in all fairness to you. Why
3 don't you record the conversations that you have with these
4 various witnesses?

5 A I guess it goes back to my old FBI training. We
6 never recorded conversations. If you record a conversation,
7 there is a lot of extraneous talk that goes in there that
8 you have to sift through. I have never felt it necessary.

9 I prepare notes at the time. I usually prepare
10 the report either that day or a day or two after when it is
11 still fresh in my mind, and I have just never recorded any
12 interviews I have ever done as far as I can recall.

13 Q Were you instructed one way or the other by the
14 JQC?

15 A No.

16 Q You indicate you take handwritten notes as you
17 have these conversations or interviews?

18 A Right.

19 Q What do you do with those notes?

20 A Once I prepare my report and I review the notes
21 and make sure my report is the way it should be, I throw
22 them away.

23 Q With regard to the preparation of your report, do
24 you actually do the typing with regard to these summaries,
25 or do you have a word processor do it after you dictate this

1 summary?

2 A Well, 90 percent of the time I do it myself. My
3 wife is a former FBI steno. On occasion, if I have a long
4 one she will type while I dictate, but I would say of these,
5 probably 99 percent I did by myself.

6 Q I assume, unless you told me otherwise, on the
7 occasions your wife does it there is some notation to the
8 effect that she is involved?

9 A No.

10 Q No, there is not?

11 A No.

12 Q You proof them whether you do them or your wife
13 does them, correct?

14 A Always proof them and change them, you know, as to
15 make sure they are correct.

16 Q You don't throw your notes out until you get a
17 final version, correct?

18 A That's correct.

19 Q With regard to any of the proofs or with regard to
20 the final version, do you provide them to the person with
21 whom the interview was conducted?

22 A No.

23 Q Why don't you do that as a further proof of what
24 they told you?

25 A Seldom have they ever been asked for. It would

1 create an administrative nightmare for a one-man band. I am
2 not sure the JQC would permit it.

3 Q Okay. But that has never come up before?

4 A As I recall -- and I don't think it was with this
5 case -- somebody asked me once or twice if they could see
6 the results afterwards. As I recall, I asked the general
7 counsel and they said no.

8 Q Would that have been Mr. MacDonald?

9 A Yes, but I am quite sure it was not this case. I
10 know which case it was, and as I say, it is seldom asked
11 for. Maybe once or twice in all the cases I have done.

12 Q When you say asked for, I assume you are talking
13 about the witness or the person interviewed asking to see a
14 copy of the summary after the fact?

15 A The witness would say, "Any chance I can see the
16 results of it?" I say, "No," and it is dropped at that and
17 not a big deal to them.

18 Q In a general sense, do you evaluate the
19 credibility of the person you interview in these summaries?

20 A Sure.

21 Q And if you find them unbelievable, do you state
22 that?

23 A I would state that, yes, but you have to realize
24 most of the people I talk to are judges and attorneys. I am
25 not going to find too many unbelievable witnesses in that

1 group, I would think, and if I did, then I would certainly

2 bring it to somebody's attention.

3 Q I guess what I am getting at by that question is,

4 to the extent you have personal input based upon your

5 observation of how the interview process goes down, you put

6 that in these summaries?

7 A No, I don't. Those summaries don't contain any

8 personal observations along those lines. I put down what

9 the witness tells me. If at a later time it was being

10 prepared for hearing of some sort, then I might discuss with

11 the attorney what my feelings were toward the witness, but I

12 just put as near as I can what was told to me in those

13 statements.

14 Q Have you done that in this case, talked about your

15 personal impressions of the witnesses you have interviewed?

16 MS. BUTCHKO: I am going to object to privilege.

17 MR. RYWANT: And instruct him not to answer?

18 MS. BUTCHKO: And instruct him not to answer, yes.

19 BY MR. RYWANT:

20 Q Okay. With regard to your work in the case

21 involving Judge Holloway, the first person you interviewed

22 would have been Mark Johnson?

23 A That's correct.

24 Q That was done on June 13?

25 A I'm not sure I have that. Can I see what you are

1 looking at there?

2 Q Sure.

3 A Yes. I wanted to make sure the first one was a

4 telephone.

5 Q I thought you had that in your file. I think it

6 is at the very end.

7 A I think I did mention it, but I didn't have it in

8 my index. It might be in there somewhere.

9 Q Okay.

10 A It seems like I recall mentioning it.

11 MS. BUTCHKO: Can I show him my copy?

12 MR. RYWANT: Sure. I am pretty sure I have a copy

13 somewhere if you need to look at it if you want.

14 MS. BUTCHKO: Okay.

15 BY MR. RYWANT:

16 Q Between June 1 and June 13, 2000, did you do any

17 investigation in this case?

18 MS. BUTCHKO: I am going to object to anything on

19 the basis of attorney/client privilege and instruct the

20 witness not to answer for any investigation done prior

21 to or after what is written in that witness summary.

22 BY MR. RYWANT:

23 Q Okay. Between June 1 and June 13, did you do any

24 investigation in preparation for the interview with

25 Mr. Johnson that occurred on June 13, 2000?

1 MS. BUTCHKO: Same objection to that question and
2 instruct the witness not to answer.

3 MR. RYWANT: I mean, that is a different question.

4 MS. BUTCHKO: It sounded like the same one.

5 MR. RYWANT: No. That was a subset of the first
6 one.

7 MS. BUTCHKO: Same objection.

8 BY MR. RYWANT:

9 Q Okay. How long did the conversation with
10 Mr. Johnson last?

11 A Probably in the neighborhood of -- let me see
12 here. You are testing my memory.

13 MS. BUTCHKO: I am going to instruct the witness
14 not to guess. If you know or can give a reasonable
15 estimate, then go ahead.

16 BY THE DEPONENT:

17 A Reasonably, about 20 minutes to a half hour.

18 Q Exhibit 1 is a copy of your summary you provided
19 to the JQC relative to your interview with Mark Johnson?

20 A That's correct.

21 Q When did you prepare that summary that is
22 Exhibit 1?

23 A I don't recall. Probably the same day or the next
24 day.

25 (Whereupon, Exhibit 1 was identified for the

1 Record.)

2 BY MR. RYWANT:

3 Q In the first paragraph of the summary, last
4 sentence, there is a reference to Mr. Johnson being the
5 Executive Director of the U.S. Census Monitoring Board?

6 A Yes.

7 Q Did he volunteer that, or did you ask him a
8 question that called for that response?

9 A I would have asked him a question. I always ask
10 them what their position is or what their occupation is. So
11 that would have been my question to him.

12 Q Did he volunteer in response at that time or in a
13 subsequent part of this interview that that was a political
14 appointment?

15 MS. BUTCHKO: Just a moment. At this point, I am
16 going to make a privilege objection and instruct the
17 witness not to answer as to any matters not covered in
18 that witness summary.

19 BY MR. RYWANT:

20 Q Okay. Would you answer that question, then,
21 Mr. Butler?

22 A She told me not to.

23 Q No. She said anything not covered in that
24 summary, and that is covered in that summary.

25 MS. BUTCHKO: If the political appointment is in

1 there, I didn't see it. If it is in there, then you

2 should answer.

3 MR. RYWANT: It is in the first paragraph.

4 MS. BUTCHKO: Okay.

5 BY THE DEPONENT:

6 A Yes. He advised it is a political appointment.

7 Q Did he volunteer that information?

8 A I don't recall.

9 Q Did he elaborate on it other than what is

10 reflected in your summary?

11 A No.

12 Q He did not?

13 A No.

14 Q You do recall that?

15 A Well, my question to him would have been, "What is

16 your occupation?" Now, let me back up again. Whether or

17 not he said it was a political appointment or whether I

18 asked him, I can't say. I don't know, and I don't know

19 whether he volunteered it. I don't think he did, but you

20 are going back a year. I am giving you my best

21 recollection.

22 Q My perspective on this is, certainly the question

23 is propounded by you, "What is your employment?" The

24 response to that would be, "Executive director." As I look

25 at it, the question you would have asked Mr. Johnson doesn't

1 require him to elaborate or expound on it being a political
2 appointment.

3 MS. BUTCHKO: Objection to the form of the
4 question.

5 BY MR. RYWANT:

6 Q Now, having said that to give you my perspective,
7 do you recall whether that is something he volunteered, and
8 if so, did he expound on that in advising you that his
9 present employment was a political appointment?

10 A What I think you are getting at is, did he try to
11 wave it at me that this is a political appointment? The
12 answer is no. It was mentioned, obviously, but it was only
13 that one time. Whether or not that was my question or his
14 response, I don't know, but as far as trying to impress me
15 with the fact that it was a political appointment, I did not
16 get that take on it.

17 Q You remember that from over a year ago?

18 A Sure. I remember the impression of a people.
19 That is my job is to get an impression of people. I never
20 got the impression that he was trying to sway me by the fact
21 that it was a political appointment. Exactly whether I
22 asked the question or he said it, I just can't tell you for
23 sure.

24 Q Is it easier to develop an impression of someone
25 when you meet them face-to-face versus interviewing them

1 over the phone?

2 A I always try to do interviews face to face if I

3 can. He was in Washington, D.C. at this time.

4 Q Did you discuss that with Mr. Johnson insofar as

5 his travel to Tampa, his availability in Tampa or another

6 area where it would have been convenient for a face-to-face

7 interview?

8 A No.

9 Q In the third paragraph there is reference to a

10 incident that occurred at what is identified as a Harbour

11 Island nightclub?

12 A Right.

13 Q Do you know the name of that establishment?

14 A I subsequently learned the name. Jackson's.

15 Q How did you subsequently learn the name?

16 MS. BUTCHKO: I am going to object at this point.

17 I need to hear his answer before I know whether or not

18 to object to that.

19 (Whereupon, there was a discussion held off the

20 Record.)

21 BY THE DEPONENT:

22 A I subsequently interviewed Detective Yaratch, and

23 he mentioned the name of the establishment.

24 Q Have you interviewed any of the employees of

25 Jackson's?

1 A No.

2 Q Have you identified any of the employees who would
3 have seen this incident that Mr. Johnson dated as occurring
4 on June 15, 1999?

5 MS. BUTCHKO: That is privilege objection, but I am
6 going to waive it for this limited purpose just so you
7 don't think we are hiding stuff.

8 BY THE DEPONENT:

9 A No. I haven't talked to anybody there.

10 MR. RYWANT: I mean, don't take this the wrong way,
11 but I don't think you can go back and forth on waiving
12 and not waiving. I say that with all due respect.

13 MS. BUTCHKO: I think you are right. I apologize.
14 We are forging new ground here for me. So, you know, I
15 will just continue to make my privilege objection and
16 instruct the witness not to answer.

17 BY MR. RYWANT:

18 Q You interviewed Robin Adair, didn't you?

19 A (Indicating negatively.)

20 Q You did not?

21 A No. I did not interview Robin Adair.

22 Q Do you know who Robin Adair is?

23 A Yes.

24 Q Why didn't you interview her?

25 MS. BUTCHKO: I am going to make a privilege

1 objection and instruct the witness not to answer.

2 BY MR. RYWANT:

3 Q Let me lay the predicate for that one. Did you
4 not interview her because of some conversation you had with
5 either special counsel or general counsel?

6 MS. BUTCHKO: I have a privilege objection and
7 request that the witness not answer.

8 MR. RYWANT: In all due respect, that is a yes or a
9 no. If this witness did not rely upon a conversation
10 with counsel, I think that instruction not to answer is
11 made in bad faith, because it would have been his own
12 independent processes as opposed to something he was
13 told to do or not do.

14 MS. BUTCHKO: I understand what you are saying. It
15 makes perfect sense. I believe that this witness is
16 here and we have agreed to produce him for this
17 deposition without, you know, going to court based on
18 the Supreme Court's ruling and their instructions to
19 produce to you the statements, the witness summaries
20 that this witness made and that were presented in the
21 determination of probable cause.

22 In respect of the Supreme Court's ruling and in the
23 interest of moving this case forward, we have agreed to
24 have Mr. Butler deposed for that limited purpose. Now,
25 you know, I could give you the answers to these

1 questions, but I don't want to waive privilege.

2 MR. RYWANT: In all due respect, I don't believe

3 the privilege exists, because I firmly believe this

4 witness did not call anybody up about interviewing Robin

5 Adair. He made a decision on his own which is not

6 something that is subject to any privilege.

7 I think it is important, given the way the JQC has

8 prosecuted this matter, to establish that they have

9 absolutely avoided interviewing important witnesses.

10 BY MR. RYWANT:

11 Q That is the reason I ask again, sir, did you of

12 your own decision making decide not to interview Robin

13 Adair?

14 MS. BUTCHKO: I am going to make a privilege

15 objection and instruct the witness not to answer. You

16 can obtain that information by speaking with Robin

17 Adair.

18 BY MR. RYWANT:

19 Q Did you speak to Robin Adair and tell her why you

20 were not interviewing her, sir?

21 A I didn't speak to Robin Adair.

22 Q So she would have no information as to why you did

23 not interview her, would she?

24 MS. BUTCHKO: No. No. I just misunderstood.

25 BY THE DEPONENT:

1 A No.

2 Q Let me ask the question again just to make sure I
3 am covering the waterfront. Is the reason you did not speak
4 with Robin Adair based upon some instruction you received
5 from either Mr. MacDonald, Ms. Butchko or some other
6 attorney representing the JQC?

7 MS. BUTCHKO: I am going to make a privilege
8 objection regarding any conversations that he may have
9 had or did have with any counsel for the JQC.

10 BY MR. RYWANT:

11 Q Did you not interview Robin Adair because of your
12 own personal decision that it was not necessary?

13 A I did not interview Robin Adair because of my own
14 personal decision that it was not necessary.

15 Q Thank you, sir. You did not interview Ray Brooks
16 in this matter, either, did you?

17 A I did not. Who is Ray Brooks?

18 Q You don't know who Ray Brooks is?

19 A Not at this time. I have heard the name, but I
20 don't remember.

21 Q To the extent you did not interview him, would
22 that, once again, have been because of your own personal
23 decision?

24 A That's correct.

25 Q In Exhibit 1, reference is made to Robin Adair's

1 sister.

2 A Okay.

3 Q Did you interview her?

4 MS. BUTCHKO: I am going to object and instruct the
5 witness not to answer regarding any investigation that
6 he did or did not do that is outside of the scope of
7 these witness summaries which we were ordered to produce
8 by the Supreme Court.

9 BY MR. RYWANT:

10 Q Do you know the name of Robin Adair's sister?

11 A I don't recall sitting here. I am sure that
12 somewhere along the line I have heard it or knew it.

13 Q The same question with regard to the decision not
14 to interview Robin Adair's sister, was that your own
15 personal decision?

16 MS. BUTCHKO: I am going to object, privilege, and
17 instruct the witness not to answer.

18 MR. RYWANT: In all due respect, I think he has
19 answered that question already.

20 MS. BUTCHKO: Right. I have made my objections
21 very clear before that as to the limited purpose that
22 Mr. Butler is being produced. If I am wrong, then I am
23 wrong and I apologize for wasting your time, but at this
24 point, I feel that he is the JQC investigator.

25 He is an agent of the JQC hired and retained by us

1 in furtherance of litigation and furtherance of this
2 case. You know, he is not -- we have not listed him as
3 a witness. At this point, I don't anticipate calling
4 him at trial at this point. So this really is
5 unprecedented.

6 BY MR. RYWANT:

7 Q Mr. Butler, did you view your role in this case as
8 an independent fact finder or somebody who was trying to
9 build a case against Judge Holloway?

10 MS. BUTCHKO: I am going to object and instruct the
11 witness not to answer.

12 BY MR. RYWANT:

13 Q Mr. Johnson gave you certain descriptions with
14 regard to this incident that occurred on June 15, 1999. By
15 way of example, in the last sentence -- well, excuse me.
16 Let me move up to the second sentence where he tells you
17 Robin Adair's sister then came up and started yelling at
18 Johnson and then Judge Holloway then told Johnson to get
19 lost. Did you attempt to collaborate that in any fashion?

20 MS. BUTCHKO: I am going to object on
21 attorney/client privilege, work product. If I can just
22 have a standing objection by just saying privilege and
23 instruct the witness not to answer, otherwise, I will
24 just go through my entire litany.

25 MR. RYWANT: I think you can use that shortcut. If

1 I don't understand it in the particular context in which
2 it arises, I will ask you to explain it.

3 MS. BUTCHKO: Okay. Thank you.

4 BY MR. RYWANT:

5 Q Same sentence: Judge Holloway then told Johnson
6 to get lost. Did you attempt to verify that?

7 MS. BUTCHKO: Same privilege objection, instruct
8 the witness not to answer.

9 BY MR. RYWANT:

10 Q In the next paragraph there is reference to an
11 attorney by the name of John Grant, III. Did you interview
12 that attorney?

13 MS. BUTCHKO: Privilege objection.

14 BY MR. RYWANT:

15 Q Assuming you did not interview him, would that
16 decision have been based upon your own independent decision
17 making?

18 MS. BUTCHKO: Same objection, privilege.

19 BY MR. RYWANT:

20 Q In the second part of that paragraph there is a
21 reference to a murder case. Did you interview anyone in
22 regard to that aspect of Mr. Johnson's complaint?

23 MS. BUTCHKO: Same privilege objection.

24 BY MR. RYWANT:

25 Q To the extent you did not interview anyone with

1 regard to that aspect of Mr. Johnson's complaint, would that
2 have been as a result of your own independent decision
3 making?

4 MS. BUTCHKO: Privilege.

5 BY MR. RYWANT:

6 Q In the last paragraph you reference an unsolicited
7 facsimile of June 29, 2000. Do you see that, Mr. Butler?

8 A Yes.

9 Q I assume when you say unsolicited, were you
10 unaware it was coming?

11 A No. No. It just appeared on my fax machine.

12 Q When you concluded your interview with Mr. Johnson
13 on June 13, did you invite him to send you follow-up
14 information?

15 A I am pausing, because at some point in time he had
16 mentioned something and I had asked him for that. To the
17 best of my recollection, the June 13 conversation I did not
18 invite him to send me anything. I am quite -- I feel quite
19 confident that is the correct answer.

20 Q You had more than one phone conversation with
21 Mr. Johnson?

22 MS. BUTCHKO: Objection, privilege.

23 BY MR. RYWANT:

24 Q How many phone conversations did you have with
25 Mark Johnson?

1 MS. BUTCHKO: Same objection.

2 BY MR. RYWANT:

3 Q How many times did you call Mark Johnson

4 subsequent to June 13, 2000?

5 MS. BUTCHKO: Same objection.

6 BY MR. RYWANT:

7 Q How many times did he call you subsequent to

8 June 13, 2000?

9 MS. BUTCHKO: Same objection.

10 BY MR. RYWANT:

11 Q Have you modified your report -- excuse me, your

12 summary that is Exhibit 1 subsequent to the original

13 preparation of same?

14 A No. No. Well, understand, I type it into the

15 computer. Then I go back. I might type several interviews

16 into the computer if I did them all together. This one, as

17 I recall, I did separately. Then I go back and proofread it

18 with my notes and make changes, but once the finished

19 product is finished it is not modified after that.

20 Q Referenced in the last paragraph of Exhibit 1 is a

21 copy of a subpoena that was apparently served on Judge

22 Holloway?

23 A That's correct.

24 Q Now, I think you told me earlier that Exhibit 1

25 would have been done within a day or two of the interview of

1 Mark Johnson?

2 A Yes.

3 Q How is it there is an entry for June 29, 2000 if,

4 in fact, this interview was done within a day or two of

5 June 13, 2000? You were not seeing into the future there,

6 were you, Mr. Butler?

7 A Is that a facetious remark?

8 Q Yes, it is.

9 A Okay. I am going back a year. I would have to

10 correct myself that obviously I received the computer deal

11 and rather than write up another interview I tacked it onto

12 this one. I apologize for the mistake. I will try to be

13 much more accurate in the future. I did not do that to

14 confuse you or the interviewer. Rather than write up a

15 whole new interview I did it at the bottom.

16 Q Could it be another permutation of what you just

17 told me?

18 A No.

19 Q That is not a reasonable interpretation of these

20 dates?

21 A That is correct.

22 Q So you edit these summaries after the fact?

23 A No. I edit these summaries when I type them up

24 which is usually within a few days of when I took them if

25 not the same day.

1 I did not -- I get the -- I do the interviews. I
2 type them up. I edit them, and I do not submit the report
3 in this case until obviously after June 29. I got this from
4 Mark Johnson. Rather than write new results of interviews,
5 I put it onto the end of it. It is still in the computer.
6 I don't print out the hard copy. I put it in the computer
7 until I am ready to send it to the JQC.

8 Q Okay. Within a couple of weeks, this chain of
9 circumstances will have been over a year old, do you agree?

10 A That's correct.

11 Q Your memory is that good?

12 A Yes. I mean, I use the same procedure on all the
13 cases. It is not -- if you are asking me do I exactly
14 remember doing that, no, but this is the procedure I use.

15 Q Would it be fair to say if you get new information
16 with regard to any of these summaries you would edit them by
17 way of the same information?

18 A It depends if I have submitted the original report
19 to the JQC. Obviously, if I submitted the original report I
20 am not going to edit it after that, but if I have something
21 that comes up that I can tack onto the end of it, I do not
22 try to confuse them by going back and writing another
23 separate report and putting it in there. It is just my own
24 way of doing business.

25 Q This summary that is Exhibit 1, when was that sent

1 to the JQC?

2 A It was sent to the JQC -- the report was done

3 June 30.

4 Q Would you return back to that page and tell me

5 what you are referring to?

6 MR. RYWANT: Noele, can we burn a copy of that and

7 get it marked?

8 (Whereupon, there was a brief recess held off the

9 Record.)

10 BY MR. RYWANT:

11 Q Mr. Butler, during our break we had marked

12 Exhibit 19. Could you identify that for the record, please?

13 A It is the cover page for my report that I

14 submitted to the JQC.

15 (Whereupon, Exhibit 19 was identified for the

16 Record.)

17 BY MR. RYWANT:

18 Q Encompassed in that report would have been what,

19 sir?

20 A It would have been all the pertinent investigative

21 materials I had obtained to date. Let me say something.

22 When I prepared the report, I prepare it around the day of

23 June 30. I get all my stuff together. The purpose of my

24 investigation is to try to give the complete and total

25 picture to the JQC so they can make a decision.

1 You know, I don't sit down when I do an interview,
2 and I keep all the interviews until the time of my report.
3 At that time I try to give it to them in a logical way so
4 they can go through it and make a decision as to whether or
5 not they want to proceed. That's my sole purpose.

6 Q When you were with the FBI, I assume you
7 interviewed witnesses with the FBI?

8 A Yes.

9 Q When you interviewed witnesses, would you attempt
10 to collaborate or disprove what witnesses told you by
11 talking to other witnesses?

12 A If it was pertinent. You know, it depends. I
13 don't talk to everybody that the witness might have said
14 something about. If it was pertinent to the investigation,
15 I pursue it. If it is not pertinent to the investigation, I
16 don't pursue it.

17 Q In your discussions with Mr. Johnson, did you
18 perceive he had an agenda with regard to Judge Holloway?

19 MS. BUTCHKO: I am going to object, attorney/client
20 privilege, and instruct the witness not to answer.

21 BY MR. RYWANT:

22 Q Let me make sure that question is appropriately
23 focused. Separate and apart from anything you discussed
24 with attorneys for the JQC, based upon your discussions with
25 Mr. Johnson, did you reach a conclusion whether he had an

1 agenda with regard to Judge Holloway?

2 MS. BUTCHKO: Let me just understand the question.

3 Can you separate your response from any conversation

4 that you had with any lawyers?

5 THE DEPONENT: Sure.

6 MS. BUTCHKO: Okay. I am going to make a relevance

7 objection as to what his personal opinion is of this

8 individual, but I am going to allow him to answer as

9 long as it is not reflective of any conversations that

10 you had with lawyers.

11 BY THE DEPONENT:

12 A I figured he probably had an agenda, but that was

13 not in any way influencing me.

14 Q In your experience as an FBI agent investigator,

15 people color things based upon their perspective?

16 A Sure.

17 Q They color things based upon their agenda?

18 A Uh-huh.

19 Q Yes?

20 A Yes.

21 Q And that's why it is necessary when you were with

22 the FBI to go out and collaborate or disprove things

23 witnesses told you by talking to other people, fair?

24 A If pertinent. Witnesses tell me a lot of things.

25 A lot of the stuff they tell me may not be pertinent. I

1 pursue what I think is pertinent.

2 Q In terms of pertinent interviews, did you

3 interview Judge Holloway?

4 A No. No.

5 Q Did you ask to interview her?

6 A No.

7 MS. BUTCHKO: I would have objected to that

8 question if I would have gotten to it in time. Give me

9 a second on some of these things to make an objection.

10 Whether or not he made any request to the JQC lawyers

11 or --

12 MR. RYWANT: You misunderstood. That was probably

13 a poorly framed question. Let me clarify.

14 BY MR. RYWANT:

15 Q Did you ask Judge Holloway if she would mind being

16 interviewed?

17 A No.

18 Q Did you ask her if she waived the policy of the

19 JQC?

20 A I did not talk to Judge Holloway.

21 Q You are aware of the JQC policy because of your

22 other work for them?

23 A Yes.

24 Q Have you ever interviewed a judge who was subject

25 to investigation?

1 MS. BUTCHKO: I am going to object, attorney/client
2 privilege, beyond the scope relevance.

3 BY MR. RYWANT:

4 Q From the standpoint of an investigator who wants
5 to give -- and I quote -- "a complete and total picture,"
6 would it be important to interview the person who is the
7 subject of the complaint?

8 A Important for me to interview them?

9 Q Well, you are the one gathering the facts to give
10 a complete and total picture?

11 A That's correct. Sure.

12 Q After Mr. Johnson, what is the next interview or
13 series of interviews you conducted? And let me compound
14 that question. I realize that compounding questions makes
15 them objectionable, but can you tell other than looking at
16 the dates on the statements?

17 A Well, I can tell, but I can't tell by sitting here
18 today because I don't have that material.

19 Q What material would that be?

20 MS. BUTCHKO: Can't you sift through the
21 interviews?

22 BY MR. RYWANT:

23 Q That's what I was getting at. Is that the only
24 way we can do it, by going through the various statements?

25 MS. BUTCHKO: I am going to object on

1 attorney/client privilege.

2 BY MR. RYWANT:

3 Q Is there some other way you can tell by --

4 MS. BUTCHKO: He created a list for me. He created

5 a list for the JQC in the order in which the interviews

6 were done. That's his hesitancy, and that is the

7 privilege I am claiming.

8 BY MR. RYWANT:

9 Q Is the ordering that was just described by special

10 counsel a result of the conversation you had with Special

11 Counsel Ms. Butchko, Mr. MacDonald or some other attorney

12 representing the JQC?

13 A No.

14 Q It is something you independently compiled?

15 A Sure. Sure.

16 Q Can I see that?

17 MS. BUTCHKO: No. I am going to object as to

18 privilege.

19 MR. RYWANT: Which privilege would that be?

20 MS. BUTCHKO: It is attorney/client privilege. He

21 put together documents for the JQC, and he provided an

22 order for them, an index.

23 BY MR. RYWANT:

24 Q I understood the witness to say, and let me

25 clarify, because I obviously misunderstood you, that you did

1 not talk to any attorney in the JQC in arriving at that
2 chronological index. Is that what you told me earlier?

3 A That's correct.

4 MR. RYWANT: Okay. I don't see how that can be
5 attorney/client, because he didn't talk to any attorney
6 to get instructions to do that.

7 MS. BUTCHKO: It is work product. It is work
8 product, attorney/client privilege. It is privileged
9 communications between our investigator and the JQC.

10 BY MR. RYWANT:

11 Q Were you instructed to interview witnesses in a
12 certain order?

13 A No.

14 Q You independently determined the order of the
15 interviewing?

16 A Well, typically, the order of interviewing is
17 logical. You know, it is who is present, who is not, if you
18 can do all three in one day or if they are all together,
19 let's do them. There is not any particular order.

20 Q Fair. What is the logic in this case?

21 MS. BUTCHKO: I am going to object as to form.
22 What is the logic in this case?

23 MR. RYWANT: It is his word. That is why I am
24 asking him.

25 MS. BUTCHKO: Well, I am going to object to any

1 questions that go beyond the scope of the witness
2 interview statements that we provided pursuant to the
3 Supreme Court's ruling.

4 So, you know, Mr. Butler, if you can, sift through
5 your statements there. Put them in whatever date order
6 you can put them in so we can proceed in the order that
7 they were taken.

8 BY MR. RYWANT:

9 Q What was your logic, as you used that term a
10 moment ago, in taking the statements in the order that is
11 identified by the dates on the statements?

12 A You are testing my memory here. I am going back a
13 year. I can give you typically what I do. If I do an
14 interview and it leads to two or three more interviews, if
15 they are in that particular area I try to go to that area
16 and get them done at one time. Then I go to a third.

17 If you are getting at was there some particular
18 way I did this? I don't recall any particular way other
19 than just doing the interviews where they were convenient
20 and logical and getting them all done -- who was in town,
21 who is not in town, who is available today, who is not
22 available and when I am available to do it. I have a few
23 other things too.

24 Q The next series of interviews after Mr. Johnson's
25 on June 13 are dated June 16, correct me if I am wrong,

1 based upon your review of the summaries you have, sir.

2 A Which would those be? I have them in alphabetical
3 order. I don't have them in date order.

4 Q Okay. I have the June 16 statements as being, in
5 alphabetical order: Bowers, Cosby, Keene, Rowland, Stoddard
6 and Yaratch.

7 A Okay.

8 (Whereupon, Exhibits 6, 7, 8, 13 and 15 were
9 identified for the Record.)

10 BY MR. RYWANT:

11 Q Do you have any interviews taken between June 16
12 and June 13?

13 A I have no way of knowing that unless I go through
14 all of these. I don't recall any, and there is not any
15 indication in the materials that I have that I did.

16 Q Can you tell us in what order you interviewed
17 these people on June 16?

18 A I don't recall. I can recall I did Judge
19 Stoddard. Now, whether I did him before I did the PD, I
20 don't recall that. I did him first. Then I did the
21 judicial assistant, and I did the bailiff. I did the --
22 then after I did those three, I went down and did the David
23 Bowers. Now, whether I did the two at the police department
24 before or after, that I don't recall.

25 I am sure I would have made an appointment with

1 Judge Stoddard, and I don't recall when the appointment
2 was -- whether it was in the morning or afternoon, but I
3 tried to do them all in one fell swoop rather than making
4 several trips downtown.

5 Q Would June 16 be the date of these interviews?

6 A Yes.

7 Q Would you have contacted any of these people other
8 than to set up an appointment with Judge Stoddard prior to
9 June 16?

10 A I don't think I called Detective Yaratch. If I
11 called him, it would have just been to set up an
12 appointment, but to talk to them, no. I am pretty sure I
13 just showed up at the police department and did not contact
14 him. So to answer your question, it would just be Judge
15 Stoddard. I prefer to interview people kind of on the spur
16 of the moment rather than let them know I am coming.

17 Q Why is that?

18 A Sometimes it is more productive in the interviews.

19 Q In what sense?

20 A Just I would rather people not have a whole lot of
21 time to think about it. I think it makes it more productive
22 to talk to them right away rather than let them sit there
23 and think.

24 Usually the truth, as best it is, comes right off
25 the top of their head first, and I don't particularly like

1 people maybe getting together and hashing out their stories.

2 I would rather get their own story before they have a chance

3 to get to others to talk to them. My only desire is to find

4 out what happened, what the truth is.

5 Q You discussed with Yaratch the incident that

6 occurred at Jackson's?

7 A The best of my recollection, I just remember bits

8 and pieces. Detective Yaratch brought that up. I didn't.

9 I didn't think it was a big deal. It did not interest me.

10 Q Well, Detective Yaratch certainly cast that in a

11 different light for you, didn't he?

12 MS. BUTCHKO: I have an objection. I don't

13 understand the question.

14 MR. RYWANT: Go ahead, Mr. Butler.

15 MS. BUTCHKO: Object as to form.

16 MS. BUTCHKO: If you understand the question, you

17 can answer it, but I think it is argumentative.

18 BY THE DEPONENT:

19 A What is your question again?

20 MR. RYWANT: Why don't you read it back?

21 THE DEPONENT: I know what it was now. You don't

22 have to read it back.

23 BY THE DEPONENT:

24 A He might have, but I was doing the investigation,

25 not him.

1 Q In fact, he related to you that Judge Holloway
2 said she felt threatened by Mr. Johnson at the time of the
3 Jackson's incident?

4 A That's true, but I was not investigating
5 Mr. Johnson.

6 Q But you were looking at the complete and total
7 picture insofar as the allegations or assertions that
8 Mr. Johnson was making against Judge Holloway, correct?

9 A I was looking for any -- let me get this right. I
10 was looking for -- to disprove or prove any allegations
11 regarding Judge Holloway. I was not investigating
12 Mr. Johnson.

13 Q Are you aware that people have testified that
14 Mr. Johnson told them he was going to get Judge Holloway?

15 A I don't recall anybody telling me that or saying
16 that.

17 Q Has anybody told you other than what Detective
18 Yaratch told you he heard from Judge Holloway, have you
19 heard in any other context that Judge Holloway was
20 threatened by Mr. Johnson?

21 MS. BUTCHKO: I am going to object on
22 attorney/client privilege, work product any
23 conversations that Mr. Butler may have had or heard
24 regarding this case that is not contained in these
25 witness statements.

1 MR. RYWANT: And instruct him not to answer?

2 MS. BUTCHKO: And instruct him not to answer.

3 BY MR. RYWANT:

4 Q Have you been told to do a follow-up investigation

5 relative to verifying or not verifying whether Mr. Johnson

6 threatened Judge Holloway?

7 MS. BUTCHKO: Same objection.

8 BY MR. RYWANT:

9 Q If, in fact, Mr. Johnson had threatened Judge

10 Holloway, would that be important to you in terms of getting

11 the complete and total picture?

12 MS. BUTCHKO: Let me make a relevance objection,

13 but you can answer.

14 BY THE DEPONENT:

15 A No. It is not important to me. Again, I am not

16 investigating Mr. Johnson. That might go to the credibility

17 of Mr. Johnson, but Mr. Johnson made allegations. It was up

18 to me to prove or disprove the allegations. Now, whether

19 Mr. Johnson is threatening Judge Holloway has nothing to do

20 with the allegations against Judge Holloway.

21 Q But you would agree with me that it does go to the

22 credibility of Mr. Johnson, at a minimum?

23 MS. BUTCHKO: Objection, relevance. You can

24 answer.

25 BY THE DEPONENT:

1 A Sure, but that's why I did all the other
2 investigations and talked to all the other people, to prove
3 or disprove what Mr. Johnson said. I was certainly not
4 going on the word of Mr. Johnson. That's why all these
5 other interviews were done.

6 Q With regard to all the other people you
7 interviewed, did you interview Todd Alley?

8 A No.

9 Q Do you know who he is?

10 A Yes.

11 Q Who is he?

12 A He is the husband of Judge Holloway.

13 Q Did you interview Jim Holloway?

14 A No.

15 Q Do you know who he is?

16 A Yes.

17 Q Who is he?

18 A The brother of Judge Holloway.

19 Q Did you interview any of the staff at Alley &
20 Ingram?

21 A No.

22 MS. BUTCHKO: Once again, I am going to renew my
23 objection to the series of questions you just made based
24 on my previous privilege objection.

25 BY MR. RYWANT:

1 Q Were you ever advised that Mr. Johnson threatened
2 to get Judge Holloway's job, implying that he would have her
3 removed from the bench?

4 MS. BUTCHKO: In the context of one of these
5 witness statements, or in what context?

6 MR. RYWANT: At all.

7 MS. BUTCHKO: Okay. Then I have a privilege
8 objection and instruct the witness not to answer.

9 BY MR. RYWANT:

10 Q Did you ever interview any witness who told you
11 that or implied that they heard Johnson say that?

12 MS. BUTCHKO: I am going to object on work product
13 privilege. If you can answer that based upon the
14 witness statements, then go ahead. If it is beyond the
15 scope of those statements, I instruct you not to answer.

16 BY THE DEPONENT:

17 A I don't recall a witness telling me that. I
18 interviewed a lot of witnesses, but I just don't recall that
19 being said.

20 Q Would that have been something you would be
21 interested in with regard to the motive of Mr. Johnson, if
22 he had made statements to that effect?

23 A Well, I think you are surmising here that I am
24 going into this believing the complaint. I go into this
25 neutral. What you are getting at or what you seem to be

1 saying is: Are you taking what he said as what happened?

2 The answer is no. That's why I interviewed all these other

3 witnesses.

4 Q I can see where you may have that perspective,

5 Mr. Butler, but I am not surmising that. I am just trying

6 to find out if you would be interested having me now told

7 you that some witnesses are going to come forward and say,

8 "Mr. Johnson threatened to have Judge Holloway's job"?

9 A No. That would not have been of particular

10 interest to me.

11 Q It would not?

12 A No.

13 MS. BUTCHKO: I just have a relevance objection,

14 but the answer can stand.

15 BY THE DEPONENT:

16 A I kind of surmised when he made the complaint that

17 he probably didn't like Judge Holloway.

18 Q In the fifth paragraph, Detective Yaratch per your

19 summary indicates that he does not think Johnson was loud

20 and disruptive at Jackson's. Did you do any follow-up

21 investigation to prove or disprove that opinion by Detective

22 Yaratch?

23 MS. BUTCHKO: I am going to object on privilege and

24 instruct the witness not to answer.

25 BY MR. RYWANT:

1 Q In the next paragraph you talk about Dean
2 Tsourakis. Did you ever interview Assistant State Attorney
3 Tsourakis?

4 MS. BUTCHKO: Objection, instruct the witness not
5 to answer.

6 BY MR. RYWANT:

7 Q Assuming you did not interview him, would that
8 have been something that you would have independently
9 determined was unnecessary?

10 MS. BUTCHKO: Same objection. It is beyond the
11 scope of the parameters of the Supreme Court, work
12 product privilege. Instruct the witness not to answer.

13 (Whereupon, there was a discussion held off the
14 Record.)

15 BY MR. RYWANT:

16 Q In the next paragraph there was a reference to
17 Mike Sinacore. Did you interview him?

18 MS. BUTCHKO: Same objection.

19 MR. RYWANT: With regard to any interview or not?

20 MS. BUTCHKO: Actually, I withdraw my objection.

21 That is one of the witness summaries we provided.

22 BY THE DEPONENT:

23 A Yes.

24 Q Did you interview Mr. Sinacore more than one time?

25 A No.

1 Q This incident that occurred with Judge Stoddard
2 that you took interviews with, that did not occur in the
3 context of a hearing where parties are present, did it?

4 A No.

5 Q You interviewed David Rowland?

6 A Yes.

7 Q Did you interview the Chief Judge Dennis Alvarez?

8 A I did not. The chief judge was out that day. I
9 am trying to think. It was a medical problem. I have
10 forgotten what it was, but he was going to be out for a
11 period of time. It seems like he broke a leg or something
12 of that nature. I am not sure, but he was not in.

13 Q I gather by that comment that you wanted to
14 interview him but for his unavailability?

15 A Initially I did, but after that I did not see any
16 real reason to interview the chief judge. I got all that I
17 needed from Mr. Rowland. Otherwise, I would have gone back
18 and sought him out at a later time.

19 Q What was it that you would have been looking for
20 in the interview with the chief judge?

21 A To see what was reported to him, but he was not
22 there, as I recall. Well, let me read that. Was it
23 Rowland?

24 Q Yes, sir.

25 MS. BUTCHKO: While they are reading that, would

1 you read the question that is pending?

2 (Whereupon, pertinent portion of the Record was
3 read.)

4 MS. BUTCHKO: I have a privilege objection, work
5 product, and also beyond the scope of parameters of the
6 Supreme Court ruling and instruct the witness not to
7 answer.

8 MR. RYWANT: Just for the record, it is clear that
9 he references the chief judge. He has already testified
10 about a desire to interview the chief judge, but the
11 instruction is the instruction. So be it.

12 BY MR. RYWANT:

13 Q With regard to the interview of Judge Stoddard, it
14 appears in -- that was also taken on June 16?

15 A Yes.

16 Q It appears on the second page, Mr. Johnson --

17 A Butler.

18 Q I am sorry. I do apologize for that. That was
19 very inappropriate. Mr. Butler, the second full paragraph,
20 second sentence of that paragraph, it appears that Judge
21 Stoddard told you that the incident with Judge Holloway
22 accelerated the process but he was already on the way out of
23 that case. Do you see where you summarize that?

24 A Yes.

25 Q In fact, you go on to elaborate why he was already

1 out of that case?

2 A That's correct.

3 Q Did you ask him or did he volunteer or otherwise

4 discuss with you how quickly he was going to be out of the

5 case?

6 MS. BUTCHKO: I have an objection to any

7 conversations that are not included in this witness

8 summary.

9 BY MR. RYWANT:

10 Q Well, you only interviewed Judge Stoddard one

11 time?

12 A That's correct.

13 Q So any response you could give to the question I

14 previously propounded would be as a result of that interview

15 of June 16, 2000 which we have here, the summary of the

16 conversation as --

17 A I have it.

18 Q -- Exhibit 14?

19 MS. BUTCHKO: My attorney/client privilege and work

20 product objection is for any information that may or may

21 not have been ascertained that is not included in this

22 statement. These are the statements that were provided

23 for purposes of the PC.

24 MR. RYWANT: Just so it is clear, am I to

25 understand the JQC's position if this witness left

1 something out of this statement with regard to a
2 discussion that was held on the day of the interview,
3 that because he left it out I can't ask about it, even
4 though it was discussed on the day that the interview
5 was performed?

6 MS. BUTCHKO: My understanding of the Supreme
7 Court's ruling is that you are allowed to know and to
8 investigate the information that was presented to the
9 investigative panel in order to determine probable
10 cause.

11 So, you know, my interpretation is that you are
12 limited to the four corners of these documents. I may
13 be proven wrong, but that is my interpretation of the
14 ruling.

15 MR. RYWANT: I don't mean to be sarcastic, but it
16 is ironic that Judge Holloway's interpretation of a
17 question has gotten her in very hot water with regard to
18 the JQC, but you, as special counsel for the JQC, can
19 rely upon what your interpretation was in regards to an
20 issue that I -- in all due respect, was not raised or
21 asserted before the Supreme Court and I think certainly
22 is relevant insofar as the specific time of the
23 interview with Judge Stoddard.

24 I am asking about information that was gleaned and
25 may or may not be in this report.

1 MS. BUTCHKO: Mr. Rywant, I am not under oath nor
2 am I a subpoenaed witness under a duty to respond fully
3 and accurately as Judge Holloway was. I am an attorney
4 who is interpreting a Supreme Court ruling that was
5 issued in a case that I am handling it.

6 I don't purport to be a legal scholar. I am solely
7 interpreting the ruling the way that I see fit. If I am
8 proven wrong, I will gladly allow you the opportunity to
9 depose Mr. Butler further.

10 BY MR. RYWANT:

11 Q Did you obtain information from Judge Stoddard as
12 to why he was on his way out of this case before Judge
13 Holloway came to his chambers?

14 MS. BUTCHKO: I have the same privilege objection
15 and instruct the witness not to answer.

16 BY MR. RYWANT:

17 Q Doesn't it say, sir, in your report, quote: "He
18 was already on the way out of that case"?

19 A Wait a minute. I lost my place, here. "He was
20 already on the way out of the case" is what it says.

21 Q That is something Judge Stoddard told you on
22 June 16, 2000?

23 A That's correct.

24 Q Did he explain what he meant by that?

25 A He explained that a police detective who had

1 testified in the case had his own child custody case before

2 Judge Stoddard and that was the reason for the recusal.

3 Q Did he identify who the police detective was?

4 A No.

5 Q Did you ever determine who that detective was?

6 A I surmised who it was.

7 Q Who?

8 A Detective Yaratch.

9 Q Did you ask him about that?

10 MS. BUTCHKO: Objection as to privilege, instruct

11 the witness not to answer.

12 BY MR. RYWANT:

13 Q Did you interview Detective Yaratch before or

14 after you interviewed Judge Stoddard?

15 A I am not sure. It seems like I did before, but I

16 can't swear to that. I just don't know if I interviewed him

17 the same day. I think I did it before, but at this time I

18 don't recall for sure.

19 Q With regard to Judge Stoddard's comment on him

20 being on his way out of the case, did he explain that

21 insofar as timing?

22 A No.

23 Q Did you ask him but for Judge Holloway's

24 appearance at his chambers when he would have recused

25 himself from the case because of Detective Yaratch?

1 MS. BUTCHKO: Objection, privilege, instruct the
2 witness not to answer.

3 MR. RYWANT: Read that question back, please.

4 (Whereupon, pertinent portion of the Record was
5 read.)

6 BY MR. RYWANT:

7 Q Let me ask you to assume that you did ask him
8 that. Did he give you an answer?

9 MS. BUTCHKO: I am going to object. It calls for
10 speculation. It is beyond the scope of these witness
11 summaries. It is work product, attorney/client
12 privilege, instruct the witness not to answer.

13 BY MS. BUTCHKO:

14 Q Didn't he tell you that he was trying -- I am
15 referring to Judge Stoddard -- to determine the best time to
16 recuse himself from the Adair versus Johnson case?

17 A Yes.

18 Q So he did discuss with you the timing of his going
19 out of the case, and that is something that is in your
20 statement?

21 A He just said the best time. He didn't say if it
22 was going to be tomorrow, next week or two weeks from now.
23 He just said the best time, and I didn't pursue when the
24 best time he was talking about date wise. If that is what
25 you are referring to, I don't know the date or length of

1 time, week, month or year.

2 Q Did you ask him that?

3 A No, I didn't.

4 Q Why?

5 A It was not pertinent. I was just trying to find

6 out what -- whether that was the reason he was getting out

7 of the case. Was it Judge Holloway or not? He said it was

8 not. I put it down exactly the way he laid it out.

9 Q That was not pertinent to you based on the

10 information you developed up to that point?

11 A No.

12 Q That is not true?

13 A Well, it was not pertinent whether it was

14 tomorrow, two weeks from now or three weeks from now.

15 Q It was not pertinent at the time you were

16 discussing it with Judge Stoddard based upon the

17 investigation you had conducted up to that point. Is that

18 fair?

19 A That's correct.

20 Q You had spoken to Mark Johnson at that point in

21 time, correct?

22 A Yes.

23 Q Did that ever become pertinent to you in the

24 course of these summaries you have taken?

25 MS. BUTCHKO: Objection, privileged, instruct the

1 witness not to answer.

2 BY MR. RYWANT:

3 Q Did you ever ask any of these subsequent witnesses
4 information relative to that timing process that we have
5 been discussing?

6 MS. BUTCHKO: I want to make a privilege objection
7 and instruct the witness not to answer unless it is
8 included in the witness summaries that we have provided.

9 BY THE DEPONENT:

10 A I don't recall it being included in any of the
11 summaries.

12 Q And was it not included because you did not ask,
13 or was it not included because you chose not to include it
14 in the summaries?

15 MS. BUTCHKO: Let me make a privileged objection
16 and instruct the witness not to answer.

17 BY MR. RYWANT:

18 Q Did Judge Stoddard tell you Judge Holloway
19 apologized for this incident?

20 A As a matter of fact, in the last paragraph in that
21 he says he had no other meetings or conversations with Judge
22 Holloway or anyone in her office about the Adair v. Johnson
23 case other than in court when she was on the witness stand.

24 He continued that he had only seen her once since
25 the confrontation and they did not speak. He pointed out

1 she was in the building across the street. So I guess the
2 answer to your question would be no.

3 Q Did you review the testimony she presented in
4 court?

5 MS. BUTCHKO: At which time, Mr. Rywant?

6 MR. RYWANT: With regard to this reference: "When
7 she was on the witness stand."

8 BY THE DEPONENT:

9 A Are you referring to the Johnson versus Adair
10 case, or are you referring to the JQC?

11 Q I am talking about per your summary, because I
12 can't ask you anything, apparently, other than what is in
13 bold print here: "About the Johnson case other than in
14 court when she was on the witness stand." I assume the she
15 there refers to Judge Holloway?

16 A Yes, and your question to me was?

17 Q Did you review that transcript of the testimony?

18 A I don't believe I did. I think that was part of
19 the Adair case. I am quite sure I did not. That would have
20 been prior to when I entered the case. I perused that file.
21 As I recall, it was five volumes thick and a couple of
22 volumes were in court. So I did not look at all the stuff
23 in the file.

24 Q Why did you peruse that file?

25 A Well, my original thought was I was at the

1 courthouse and --

2 MS. BUTCHKO: Excuse me. I am going to make a
3 privilege objection and work product and beyond the
4 scope.

5 MR. RYWANT: Well, the problem with that is he
6 volunteered that information. I think I am entitled to
7 ask him why he did something.

8 MS. BUTCHKO: If you don't think it waives the
9 privilege and I am waiving the privilege, then I have no
10 problem with him answering.

11 MR. RYWANT: I am not going to agree to that.

12 MS. BUTCHKO: Okay. Then I am going to maintain my
13 privilege objection.

14 MR. RYWANT: And just for the record, my position
15 is the privilege has already been waived repeatedly
16 during the course of this deposition.

17 MS. BUTCHKO: And repeatedly, I have stated what I
18 believe the parameters of the Supreme Court ruling means
19 and have a standing attorney/client privilege objection
20 and work product.

21 BY MR. RYWANT:

22 Q The next series of interviews, Mr. Butler, would
23 have been on, I guess, June 23?

24 A Which one are you looking at?

25 Q I have, in alphabetical order: Carra, Hoffman and

1 Sinacore.

2 A That sounds right to me.

3 (Whereupon, Exhibits 5, 9 and 12 were identified

4 for the Record.)

5 BY MR. RYWANT:

6 Q Okay. Why was it that you interviewed Dr. Carra?

7 MS. BUTCHKO: I am going to object, same privilege

8 objection, as to why he interviewed her.

9 BY MR. RYWANT:

10 Q What was your basis for interviewing Dr. Carra?

11 MS. BUTCHKO: Same objection, instruct the witness

12 not to answer.

13 BY MR. RYWANT:

14 Q Where does Dr. Carra's name appear in your

15 investigation before June 23, 2000?

16 MS. BUTCHKO: Same objection.

17 MR. RYWANT: Instructing him not to answer that

18 one?

19 MS. BUTCHKO: Yes.

20 BY MR. RYWANT:

21 Q How did you get Dr. Carra's name to interview her?

22 MS. BUTCHKO: Same objection, instruct the witness

23 not to answer.

24 BY MR. RYWANT:

25 Q Were you instructed by special counsel to

1 interview Dr. Carra?

2 MS. BUTCHKO: Same objection, privilege, instruct

3 the witness not to answer.

4 BY MR. RYWANT:

5 Q Were you just not busy that day and wanted to talk

6 to Dr. Carra?

7 MS. BUTCHKO: Same objection.

8 THE DEPONENT: Okay. Never mind.

9 MR. RYWANT: You know, I am going to adjourn the

10 deposition at this point, because I think it is in bad

11 faith and totally inappropriate for the JQC to provide a

12 statement and not explain why that person was

13 statementized.

14 THE DEPONENT: Statementized?

15 MS. BUTCHKO: You know, Mr. Rywant, I think that

16 you behaved yourself in a very professional manner here

17 today in spite of the obvious limitations to your

18 questions.

19 I honestly feel that this deposition is

20 inappropriate in light of the fact that he is an

21 investigator for us doing work for us in furtherance of

22 litigation.

23 I thought that we could, in light of the Supreme

24 Court's ruling, provide him and he could answer your

25 questions with regard to the statements that were

1 presented to the investigative panel for the
2 determination of probable cause.

3 I can understand how frustrated you are, but I
4 don't want to waive any privilege that the JQC has in
5 this case or any future case down the line. So, you
6 know --

7 MR. RYWANT: Let me make the record on this point.
8 I am going to adjourn the deposition at this point,
9 because I feel it is very unfair and not in good faith
10 to interpose these objections.

11 It is not directed personally to you. I understand
12 you are taking the JQC's position, but we have disagreed
13 with the JQC before, and undoubtedly we will disagree
14 again, but I do want to make this record, because I am
15 going to file a motion on this subject matter.

16 BY MR. RYWANT:

17 Q Would you agree with me that with regard to the
18 witness statements you have produced that there is no
19 witness statement prior to June 23, 2000 that references
20 Dr. Sylvia Carra?

21 MS. BUTCHKO: Say that again.

22 BY MR. RYWANT:

23 Q Would you agree with me that with regard to the
24 witness statements you have produced -- and I will inventory
25 them at the conclusion -- there is no witness statement

1 prior to June 23, 2000, the date of your interview with
2 Dr. Carra, that references her?

3 A I would agree.

4 MS. BUTCHKO: Okay, but before we officially
5 adjourn, if we can take a recess so I can make a phone
6 call to clarify my position.

7 MR. RYWANT: And for the record, I do not want to
8 pressure you. You do not have to make a phone call. It
9 is obvious to me this is going to be a while longer, and
10 I don't want you to miss your flight tonight.

11 MS. BUTCHKO: My flight was tomorrow, so I am not
12 in a rush.

13 MR. RYWANT: I certainly don't want to be
14 accused -- and I know you are not, but I am making this
15 for the record -- of pressuring the JQC.

16 MS. BUTCHKO: Okay. I have already said you
17 behaved professionally. What more do you want from me?

18 (Whereupon, there was a brief recess held off the
19 Record.)

20 MS. BUTCHKO: I have had a conversation with my
21 client, and I am going to agree to adjourn at this point
22 until we receive further instruction from the Court -- I
23 presume the hearing panel or the Supreme Court, but once
24 again, I just want to reiterate my previous objections:
25 My privilege objections, work product, attorney/client

1 privilege due to the fact that Mr. Butler is our hired
2 private investigator who did work in furtherance of this
3 litigation.

4 MR. RYWANT: I would add I am going to have this
5 deposition typed, and I will provide you a copy or you
6 can order a copy. I invite the JQC to reconsider its
7 position after you have had an opportunity to review the
8 deposition and reflect upon it at a more leisurely time.

9 I would like to inventory the statements, and maybe
10 I can just give them to you, Mr. Johnson and --

11 THE DEPONENT: Give them to who?

12 MR. RYWANT: I apologize. I am looking at
13 Mr. Johnson's statement. I apologize for the slip of
14 the tongue. Would it be okay if I just give him all
15 these statements and ask him are these all the
16 statements that you provided as a result to your
17 investigation rather than going through them one by one?

18 MS. BUTCHKO: That you have provided the
19 investigative panel?

20 MR. RYWANT: Correct.

21 MS. BUTCHKO: Yes, the ones that we marked, and the
22 last ones -- the statements of Judge Essrig, Judge
23 Folsom and Judge Martin -- will be provided to the panel
24 and as a courtesy were provided to you today.

25 MR. RYWANT: Right, and they are included in this

1 group. Specifically, I had them marked as Exhibits 2, 3
2 and 4. Judge Essrig is two, Marie Folsom is three and
3 Angela Martin is four. Subject to that clarification,
4 these comprise the statements that you gave as a result
5 of your investigation -- gave to the JQC?

6 THE DEPONENT: That's correct.

7 (Whereupon, Exhibits 2, 3 and 4 were identified for
8 the Record.)

9 MR. RYWANT: Okay. Then we are adjourned. Thank
10 you, Mr. Butler.

11 MS. BUTCHKO: Gave to the JQC or gave to the
12 investigative panel in determination of probable cause?

13 MR. RYWANT: The latter.

14 (The deposition was adjourned at 5:30 p.m.)

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1 STIPULATIONS

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3 It was stipulated by and between counsel for the

4 parties and the witness that the reading and signing of this

5 deposition not be waived.

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1 STATE OF FLORIDA

2 COUNTY OF HILLSBOROUGH

3 I, NOELE J. RILEY, Court Reporter and Notary

4 Public in and for the State of Florida at Large,

5 DO HEREBY CERTIFY that the foregoing deposition of

6 Robert W. Butler was taken before me at the time and place

7 therein; that I administered unto the deponent his oath to

8 testify to the truth, the whole truth, and nothing but the

9 truth; that said deponent was there and then orally examined

10 and testified as herein set forth; that I reported said

11 examination and testimony stenographically, and that this

12 transcript of deposition, pages 1 through 79 inclusive,

13 constitutes a true and correct transcription of the shorthand

14 report of said deposition.

15 I FURTHER CERTIFY that I am neither related to,

16 nor employed by any counsel or party to the cause

17 pending, nor interested in the event thereof.

18 IN WITNESS WHEREOF, I have hereunto affixed my

19 hand and official seal this 22nd day of June, 2001.

20

21 NOELE J. RILEY

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1 E R R A T A S H E E T

In Re:

2 Inquiry concerning Judge Cynthia A. Holloway, No. 00-143

3 Case No.: SC00-2226 Reported by: Noele J. Riley

4 Date of Deposition: 6/6/01

5 DO NOT WRITE ON TRANSCRIPT -- ENTER CHANGES HERE:

6 Page No. Line No. Change

7 _____

8 _____

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22 Under penalties of perjury, I declare that I have
 read the foregoing deposition and that the facts stated
 23 in it are true.

24 Dated this _____ day of _____, 2001.

25

 Robert W. Butler

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June 22, 2001

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Robert W. Butler

4 13910 Oberlin Manor Way

Tampa, Florida 33613

5

6

IN RE: Inquiry concerning Judge Cynthia A. Holloway

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Enclosed please find a copy of the above-referenced
8 deposition in which you and/or your attorney have
indicated that you wish to read. It is imperative that
9 you read and sign your transcript immediately so that
any necessary corrections can be supplied to all
10 requesting parties. DO NOT WRITE ON THE TRANSCRIPT!!!!
You have been furnished a correction/errata sheet.

11

Please mail the transcript to this office WITHIN 10
12 DAYS OF RECEIPT:

13 RILEY REPORTING SERVICES

4308 West San Luis Street

14 Tampa, Florida 33629

(813) 832-3001

15

Please note, if your case settles, you MUST still
16 complete reading and signing of transcript.

17 Thank you in advance for your assistance and
cooperation in this important matter.

18

19 Sincerely,

20

Noele J. Riley

21

ENCLOSURE

22

cc: Beatrice A. Butchko, Esq.

23 Michael S. Rywant, Esq.

Scott K. Tozian, Esq.

24 file

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